IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.628 OF 2005
IN
WRIT PETITION NO.743 OF 2001

Guzdar Scheme Residential Trust ...Petitioner
vs.
Brihanmumbai Municipal
Corporation & Ors. ...Respondents
And
Omprakash P. Singh & Ors. ...Applicants

Mr.R.Z.Moray for the petitioner
Mr.Sakhardande with Ms Nutan & Moily for the applicants in support of Notice of Motion.
Ms Aruna Sawla for respondent 1
Ms Geeta Shastri, A.G.P. for respondent 2

CORAM: SMT.RANJANA DESAI & A.S.OKA,JJ.
DATE : DECEMBER 13,2005

P.C.:

1. This Notice of Motion is taken out by applicants 1 to 5 praying for direction to the respondents, to restrain them from demolishing and removing the structures or any part thereof occupied by the applicants. The applicants claim to be the members of an association formed and proposed of the occupiers residing at slum colony situated at C.T.S.No.1053, 962, village Juhu, Gazdar Bandh Road, Santacruz (West), Mumbai - 400 064. They claim to be entitled to rehabilitation as per eligibility under the provisions of Maharashtra Slum Areas (Improvement, Clearance and Rehabilitation) Act, 1971.

2. Various orders passed in this petition indicate that it cannot be disputed that these applicants have been allotted alternative accommodation and it appears that they have not shifted to the alternative accommodation which has resulted in stalling the clearing of the nallah where their huts are situated. In our opinion the applicants have no right to

continue to stay in their huts situated near nallah. We have heard the learned counsel for the parties. When we indicated that the applicants will have to shift, the applicants tendered in this Court undertakings of Applicants 1-Omprakash Pannhalal Singh and adult members of his family, applicant 2-Sudam Jaina and adult members of his family and applicant 4-Pradip Hirasingh and adult numbers of his family. We have perused the undertakings. In the undertakings they have stated that they are staying in their respective huts along with members of their respective families and they have undertaken to vacate the hut premises on or before 31st January 2006. Ms Shastri, A.G.P. states on instructions from the Officer who is present in the Court that the undertakings have been verified. Hence we accept the undertakings. Applicants, 1,2 & 4 shall vacate their huts as agreed on or before 31st January, 2006. So far as applicants 1,2 and 4 are concerned, Notice of Motion is disposed of in terms of the present order. So far as applicants 3 and 5 are concerned, the authorities are free to take such action against them as they may deem fit and proper. Office is directed to keep this petition for further directions before the regular court on 6th February 2006.

3. We make it clear that we have granted a limited protection to applicants 1,2 and 4 and this court has not stayed the actions which the respondents propose to take.

(SMT.RANJANA DESAI,J.)

(ABHAY S.OKA,J.)